



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

SENSITIVE

OFFICE OF THE CHAIRMAN

In the matter of

Norway Hill Associates, Inc., et al.

MURs 5513 and 5533

Michigan Republican State Central Committee, et al.

STATEMENT OF REASONS

**Chairman Scott E. Thomas
Commissioner Danny Lee McDonald**

These two cases involved allegations of improper or improperly reported efforts to help Ralph Nader get on the ballot in New Hampshire and Michigan. For purposes of this Statement, we incorporate by reference the relevant parts of First General Counsel's Report dated June 2, 2005.

The Office of General Counsel had recommended that the Commission find reason to believe there had been a knowing and willful violation of 2 U.S.C. § 441b by Norway Hill Associates, Inc. and certain of its officials, and a violation of 2 U.S.C. §§ 434(b) and 441a(a)(2)(A) by the Michigan Republican State Central Committee and its treasurer.

We voted for the motions that instead simply dismissed the MURs in question based on the FEC's prosecutorial discretion. *See Heckler v. Chaney*, 470 U.S. 821 (1985). While it is possible that the facts would support the Office of General Counsel's recommendations, the extent of any violations would be relatively inconsequential. Establishing violations would involve difficult assessments of whether certain entities were operating in the ordinary course of business, whether there had been reimbursement in a commercially reasonable time, whether the coordinated communication rules apply, and whether litigation costs were somehow exempt from FECA considerations.


Regarding the knowing and willful aspect of the Office of General Counsel's recommendations in MUR 5513, the facts might indicate that the respondents had

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changed their story, but might also indicate simply that they had not decided how payment would work out when first asked for comment. Further, it is apparent that a method for funding the activity using permissible sources was chosen relatively quickly.

Given all the difficult factual and legal issues entailed, the use of Commission resources to resolve these MURs would not be a justifiable exercise.

8/17/05
Date


Scott E. Thomas
Chairman

8-17-05
Date

Danny Lee McDonald, III
Danny Lee McDonald
Commissioner

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